

REMARKS

This divisional application is being filed in response to the communication from the Office mailed July 31, 2003 in parent application No. 10/096,715. The original claims 1-6 have been cancelled herein and new claims 7-22 have been added herein. Favorable consideration of this divisional application is respectfully requested.

In order to expedite prosecution of this divisional application, Applicant proffers the following response to the first Office Action in the parent application.

REJECTION UNDER 35 U.S.C. § 102

It is respectfully submitted that newly added claims 7-22 are not anticipated by Viegas et al. Newly added independent claims 7, 11, and 17 all recite a method for treatment of a subject, comprising using a pharmaceutical composition containing a medication and a viscoelastic substance "in surgery of a cavity of the subject, the cavity having been inherently aseptic", "in an internal ocular surgery of the subject", and "in surgery of an articular joint space of the subject", respectively. Similarly, newly added independent claim 21 recites a method "comprising using a pharmaceutical composition containing a medication and a viscoelastic substance to the internal ocular space in a surgical operation." As such, all of these independent method claims relate to methods for treatment in a surgery of a cavity, such as an intraocular cavity or a joint cavity, which is closed and inherently aseptic space, for maintaining the cavity and preventing inflammation in the cavity by preventing the cavity from collapsing. It is respectfully submitted that such methods are not disclosed in Viegas et al.

Rather, Viegas et al. only discloses a method of use, not for an interior of an eyeball (i.e., an internal ocular), as in the present invention, but for an intraocular space outside an eyeball (i.e., an external ocular). For example, Viegas et al. only discloses administering a medication to a corneal surface (anterior epithelium of cornea) by the excimer laser and the like and a protective corneal shield. The regions of internal use are outside an eyeball as expressed by “oral ingestion”, “implantation”, “rectal”, “vaginal”, and “ocular insertion” on page 4, paragraph 12, and “cornea” on page 10, paragraph 46, not a closed cavity such as a joint cavity and an internal ocular. Furthermore, in Viegas et al. “laser ablatable corneal mask or protective corneal shield” (examples 1-15 and 19-22) and “eye drop or medicated contact lens composition” (example 16-18) were actually tested. They are evidently an external ocular (i.e., a composition for an eye of an external ocular) aiming to protect a surface of external cornea.

On the other hand, the present invention provides methods of using a mixture of medications with viscoelastic substances in intraocular surgery, for example, cataract surgery. Viegas et al. does not disclose or suggest the technique of the present invention. Moreover, in Viegas et al., “surgery” of the phrase “for the protection of cornea during surgery” implies external ocular surgery such as excimer laser refraction in refractive surgery. This technique is quite different from the intraocular surgery of the present invention. In addition, application of the technique to surgery of internal ocular is remarkably different from that to surgery of external ocular. Finally, the prescriptions disclosed in the Detailed Description of Viegas et al. are combinations of compositions unsuitable for intraocular surgery, using particularly glycerin. As such, it is

respectfully submitted that independent claims 7, 11, 17, and 21 are not anticipated by Viegas et al. and are patentable over the prior art of record. Claims 8-10 depend from claim 7, claims 12-16 depend from claim 11, claims 18-20 depend from claim 17, and claim 22 depends from claim 21, and, as such, are also allowable over the prior art of record.

REJECTION UNDER 35 U.S.C. § 103

It is respectfully submitted that newly added claims 7-22 are nonobvious and are patentable over Viegas et al. (U.S. Pat. No. 5,587,175) in view of Chang et al. (U.S. Pat. No. 6,051,560). The Chang et al. patent discloses a method of protecting a corneal surface by using a composition having high viscosity to an internal ocular space. Unlike the present invention, however, Chang et al. does not disclose or suggest the composition containing a medication for prevention of inflammation or infection. In other words, the invention in Chang et al. is different from the present invention in object and effects. Furthermore, it is respectfully submitted that the present invention could not have been obtained from a combination of the techniques disclosed in Chang et al. and Viegas et al. In other words, Viegas et al. relates to a composition applicable to an external ocular space, and application of Viegas et al. to an internal ocular space on the basis of the technique of Chang et al. is essentially medically impossible. Accordingly, it is respectfully submitted that it is improper to combine the teachings of Chang et al. with the teachings of Viegas et al. to arrive at the limitations in claims 7-22. Thus, it is respectfully submitted that claims 7-22 are nonobvious and patentable over the prior art of record.

As noted above, the present invention relates to a method for treatment, in the surgery of a cavity such as an intraocular cavity or a joint cavity, which is closed and inherently aseptic space, for maintaining the cavity and preventing the inflammation and infection in the cavity by preventing the cavity from collapsing. The effects of the present invention are described in the examples of the original specification and can be provided for the first time by the present invention. Accordingly, it is respectfully submitted that the present invention having such remarkable effects is patentable over the prior art of record.

CONCLUSION

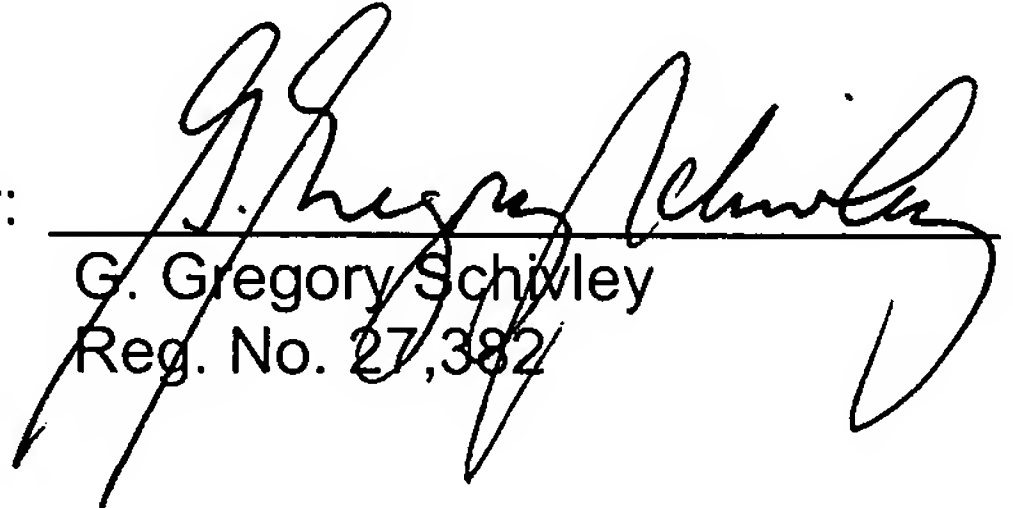
In view of the foregoing, prompt and favorable consideration of this application is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: August 29, 2003

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

By: _____


G. Gregory Schivley
Reg. No. 27,382